

3. Plaintiffs further allege Mr. Moreno is a resident of the State of New Mexico. *See id.*

4. Equipment Transport is not a citizen of Texas and was not a citizen of Texas when the State Court Action commenced. Equipment Transport is a Pennsylvania corporation with its principle place of business at 1 Tyler Court, Carlisle, Pennsylvania 17015. Under 28 U.S.C. § 1332(c)(1), Equipment Transport was a citizen of Pennsylvania at the time the State Court Action commenced.

4. Plaintiffs seek damages in excess of \$1,000,000.00 for past and future medical care expenses, past and future physical pain and suffering; past and future mental anguish; past and future physical impairment, physical disfigurement, and loss of physical ability; and past and future loss of wages and loss of earning capacity. *See* Ex. A, State Court Record, Pl's. Pet. at III.

6. Equipment Transport and Mr. Moreno now timely remove this case to federal court.

II. GROUNDS FOR REMOVAL

7. Subject matter jurisdiction exists in this case pursuant to section 1332, and therefore, removal of this case to federal court is proper because the amount in controversy is in excess of \$75,000.00 and diversity exists among the parties.

A. The Amount in Controversy Is in Excess of \$75,000.

8. Pursuant to section 1332, the amount in controversy must exceed the sum or value of \$75,000.00. 28 U.S.C. § 1332(a).

9. Plaintiffs seek damages in excess of \$1,000,000.00, which is in excess of \$75,000.00. Therefore, the amount in controversy is satisfied.

B. Total Diversity Exists Among the Parties.

10. Diversity of citizenship is assessed at the time the action is filed. *Freeport-McMoRan, Inc. v. K N Energy, Inc.*, 498 U.S. 426, 428 (1991).

11. The citizenship of an individual is based on the individual's domicile. *Coury v. Prot*, 85 F.3d 244, 250 (5th Cir. 1996).

13. Total diversity of citizenship exists because Plaintiffs' citizenship is diverse from the citizenship of Equipment Transport and Mr. Moreno in that (1) Plaintiffs are citizens of the State of Texas; (2) Equipment Transport is a citizen of the State of Pennsylvania; and (3) Mr. Moreno is a citizen of the State of New Mexico. Thus, complete diversity exists among the parties.

III. PROPER VENUE AND COMPLIANCE WITH THE REMOVAL PROCEDURE

14. Pursuant to section 1441(a), removal to this Court is proper as the accident occurred in Reeves County, Texas. *See* 28 U.S.C. § 1391(b)(2) ("A civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred").

15. Removal of this matter to federal court is timely, as Equipment Transport and Mr. Moreno have removed this matter within thirty (30) days of being served with a copy of Plaintiffs' Original Petition, the point at which this matter became removable, *see* 28 U.S.C. § 1446(b), and within one year of the commencement of this action. *See id.* § 1446(c)(1).

16. Equipment Transport and Mr. Moreno will properly give Plaintiffs written notice of the filing of this Joint Notice of Removal as required by section 1446(d). Equipment Transport and Mr. Moreno will also promptly file a copy of this Joint Notice of Removal with the District Clerk of the 143rd Judicial District Court, Reeves County, Texas, Cause No. 18-09-22589-CVR.

17. True and correct copies of all process, pleadings, and the Orders served in the State court action are being filed with this Joint Notice of Removal, as required by section 1446(a). *See* Ex. A, State Court Record.

IV. PRAYER

Accordingly, Equipment Transport and Mr. Moreno, pursuant to and in conformity with the requirements set forth in section 1446, respectfully remove Cause 18-09-22589-CVR from the 143rd Judicial District Court, Reeves County, Texas to the United States District Court for the Western District of Texas, Pecos Division.

Respectfully submitted,

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*Attorneys for Equipment Transport, LLC D/B/A Fuid &
Equipment Transport, LLC and Gerardo H. Moreno*

CERTIFICATE OF SERVICE

I certify a true and correct copy of the foregoing document was served on the parties through their counsel of record via the Court's electronic service and via email, as follows, on this 26th day of October, 2018:

/s/ Oscar A. Lara
OSCAR A. LARA

CONSENT TO ELECTRONIC SERVICE

Attorneys of record for Equipment Transport, LLC D/B/A/ Fluid & Equipment Transport, LLC and Gerardo H. Moreno consent to service by electronic means pursuant to Federal Rule of Civil Procedure 5(b)(1)(E).